

§ 365.4

18 CFR Ch. I (4-1-00 Edition)

(b) If a rate or charge for, or in connection with, the construction of a facility described in paragraph (a)(2) of this section, or for electric energy produced by a facility described in paragraph (a)(2) of this section (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge), was in effect under the laws of any State on October 24, 1992, or if any portion of a facility described in paragraph (a)(2) of this section is owned or operated by an electric utility company that is an affiliate or associate company of the applicant, the applicant must also file a copy of a specific determination from every State commission having jurisdiction over any such rate or charge, or if the rate or charge is a rate or charge of an affiliate of a registered holding company, a specific determination from every State commission having jurisdiction over the retail rates and charges of the affiliates of the registered holding company, that allowing the facility to be an eligible facility:

- (1) Will benefit consumers,
- (2) Is in the public interest, and
- (3) Does not violate State law.

(c) Applications for exempt wholesale generator status must also include a copy of a notice of the application suitable for publication in the FEDERAL REGISTER. The notice must state the applicant's name, the date of the application, and a brief description of the applicant and the facility or facilities which are or will be eligible facilities owned and/or operated by the applicant. The applicant must also submit a copy of its notice on a 3½' diskette in ASCII format. Each diskette must be clearly marked with the name of the applicant and the words "notice of filing." The notice must be in the following form:

(Name of Applicant)
Docket No. EG-

Notice of Application for Commission Determination of Exempt Wholesale Generator Status

On (date application was filed), (name and address of applicant) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

[Brief description of the applicant and the facility or facilities which are or will be eligible facilities owned and/or operated by the applicant, including reference and citation to any applicable State commission determinations.]

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before _____ and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

[Order 550, 58 FR 8906, Feb. 18, 1993, as amended by Order 550-A, 58 FR 21255, Apr. 20, 1993]

§ 365.4 Effect of filing.

A person applying in good faith for a Commission determination of exempt wholesale generator status will be deemed to be an exempt wholesale generator from the date of receipt of the application until the date of Commission action pursuant to § 365.5.

§ 365.5 Amendment of applications.

The Commission will allow amendments of applications for good cause shown without payment of additional filing fees. If the amendment is accepted, notice of the amended application will be published in the FEDERAL REGISTER, with further opportunity for comments.

[Order 591, 61 FR 57328, Nov. 6, 1996]

§ 365.6 Commission action.

If the Commission has not issued an order granting or denying an application within 60 days of receipt of the application, the application will be deemed to have been granted.

[Order 550, 58 FR 8906, Feb. 18, 1993. Redesignated by Order 591, 61 FR 57327, Nov. 6, 1996]

§ 365.7 Notification of Commission action to the Securities and Exchange Commission.

The Secretary of the Commission will notify the Securities and Exchange